HON'BLE Mrs. JUSTICE T.MEENA KUMARI
AND
HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.21289 OF 2006

DATE: 22-11-2007

Between :

M/s. Sree Lekha Agencies, Allagadda,
Kurnool District, rep. By its Proprietor
Mr. Y. Ramakrishna Reddy … Petitioner

And

Commercial Tax Officer-II,
Nandyal, Kurnool District. ... Respondent

HON'BLE Mrs. JUSTICE T.MEENA KUMARI
AND
HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.21289 OF 2006

ORDER : (Per Mrs. Justice T.Meena Kumari)

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondent in passing the re-assessment proceedings for the year 2003-04 in G.I.No.2256/2003-04, dated 31-3-2006 in respect of the petitioner under Section 14(4) of the APGST Act as arbitrary, illegal and also without jurisdiction.

The petitioner is a Coca Cola distributor and selling soft drinks at Allagadda, Kurnool District having registered itself as a dealer on the rolls of the respondent herein under the A.P. General Sales Tax Act, 1957 (for short, 'the APGST Act') for the year 2003-04, the assessment of the petitioner was completed by the respondent vide proceedings dated 9-12-2004 determining the tax payable as Rs.6,972/-. However, the respondent acting under revisional powers under Section 14 (4) of the APGST Act issued a show-cause notice dated 6-6-2005 calling upon the petitioner to show-cause as to why the assessment should not be revised on the ground that the petitioner was allowed excess set off tax on the crate rentals. Though the petitioner submitted its explanation dated 8.12.2005, the respondent rejected the objections raised by the petitioner and passed the impugned order dated 31.3.2006 determining the tax liability of the petitioner as Rs.32,174/- as against the earlier assessment of Rs.6,972/-. Hence, the present writ petition.

It is contended by the learned Counsel for the petitioner that there is no power as such to revise assessment order *suo motu*, and the impugned assessment order is *ex facie* arbitrary and illegal.

However, the learned Government Pleader while contending that the impugned order was rightly passed since in the order dated 9.12.2004 a wrong exemption was granted for inclusion of rental charges, further raised an objection as to the maintainability of the writ petition on the ground that the petitioner cannot approach this Court without exhausting the statutory remedy of appeal.

In the circumstances, as a remedy of appeal is available to the petitioner, we are of the opinion that it would be *suffice* if the petitioner is granted liberty to prefer statutory appeal within a period of three weeks from the date of receipt of this order. If no appeal is preferred within the time granted above, the impugned assessment order would stand operative.

With the above observation, the Writ Petition is disposed of. No costs.

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T.MEENA KUMARI, J.

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G. ROHINI, J

Dt.22-11-2007

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